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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,508	03/29/2001	Dennis Sunga Fernandez	FERN-P001E	9844
22877	7590	01/14/2005	EXAMINER	
FERNANDEZ & ASSOCIATES LLP			VO, TUNG T	
1047 EL CAMINO REAL			ART UNIT	PAPER NUMBER
SUITE 201				
MENLO PARK, CA 94025			2613	

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/823,508	FERNANDEZ ET AL.	
	Examiner	Art Unit	
	TUNG T. VO	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 September 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 18,19,22-32,34,35 and 37-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 18,19,22-32,34,35 and 37-49 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 March 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see the remarks, filed 10/15/2004, with respect to the rejection(s) of claim(s) 18 and 46-47 under USC 102 rejection to Fan have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Fan and Westerlage et al. references.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 18-19, 24-26, 28-32, 34-35, and 37-49 rejected under 35 U.S.C. 103(a) as being unpatentable over Fan et al. (US 5,959,577) in view of Westerlage et al. (US 5,970,481).

Re claims 18 and 46-47, Fan teaches an Internet coupled network for electronically linking at least one fixed vendor processor (base station, 27 of fig. 1) to at least one mobile buyer processor (1 and 3 of fig. 1) comprising a storage (32 of fig. 2) and a processor (38 of fig. 2) for carrying out a method for transacting between vendor and buyer processors comprising the step of: determining a first location of a mobile buyer processor coupled to the Internet (col. 3); receiving from the mobile buyer processor a first transaction message (18 of fig. 13); sending to

the mobile buyer processor a second transaction message indicating a first fixed vendor processor proximately disposed to the first location (col. 5, lines 1-51); wherein the second transaction message is caused to be sent adaptively by software that matches a mobile interest as maps, traffic situation in particular area, position of service stations and destination of interest, with a fixed vendor service or product as position of service stations by using past movement or location of the mobile buyer, thereby local transaction efficiently between the mobile buyer and a nearby vendor (32, 36, 38 of fig. 2, e.g. the processing unit (38) process a mobile interest from database storage (32) based upon the request by the user, wherein the processing unit is able to locate a nearby vendor for the user interest; see also col. 4, lines 42-55).

More over, Fan further discloses the second transaction message indicating real-time inventory (update gas station, food, or hotel services) or product of interest to the mobile buyer available at the nearby vendor (27, 32 of fig. 2), the software providing by the vendor processor (38 of fig. 2) to a video surveillance of the mobile buyer (Under periodic update mode 53, at step 55, mobile unit 1 waits for the next scheduled position update. At the time of a scheduled update, i.e., at step 58, a mobile unit (1) calls to establish network service connection 10 for accessing data network 27 and transmits to data processing station 18 an outbound data package. Upon receiving the outbound data package, data processing station 18 responds to the operator's query by searching database 32, updating a map retrieved from map storage 63, and transmitting the map to mobile unit 1 an inbound data package, see figs. 12 and 13). It is interpreted that the real time inventory of service of interest to the mobile buyer available at the nearby vendor is the inbound area that provides the services of gas station, food, or hotel are available to the mobile buyer.

It is noted that Fan discloses the second transaction message (the request for second inbound area) indicating real-time inventory of service (the gas station, food, or hotel is available in the inbound area at real time) or product of interest to the mobile buyer available at the nearby vendor, the software providing access by the vendor processor to a video surveillance of the mobile buyer (fig. 2, elements 18, 32 and 38; see also figs. 12 and 13, the mobile user selects gas station (request the inbound map) the map with gas station are shown on the LCD at the real time, called real time inventory of service) but Fan does not particularly suggest for teach location based pricing of service or product of interest to the mobile buyer available at the nearby vendor as claimed.

However, Westerlage teaches location based pricing of service or product of interest to the mobile buyer available at the nearby vendor (fig. 6, e.g. tax for each region that the truck goes by, example: regions 3, C,D is about \$0.02).

Therefore, taking the teachings of Westerlage and Fan as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Westerlage (fig. 6) into the internet coupled network of Fan for the same purpose of updating the location based pricing of service. Doing so would improve the accuracy of determining the distance traveled or price or tax for a vehicle passing through regions using a positioning system.

Re claims 19, Fan further teaches the step of determining a second location of the mobile buyer processor coupled to the Internet; receiving from the mobile buyer processor a second transaction message (cols. 3 and 4); sending to the mobile buyer processor a third transaction message indicating a second (col. 5) fixed vendor processor proximately disposed to the first location (col. 5, lines 1-51).

Re claim 24, Fan further teaches a vendor processor (38 of fig. 2) employs a software agent associated with mobile buyer processor to access a database (32 of fig. 2).

Re claim 25, Fan further teaches the transaction message is sent to mobile buyer processor according to portable identifier associated with the mobile buyer processor (1 of fig. 1).

Re claim 26, Fan further teaches an object representation of the mobile buyer processor comprises an object name, an object identifier, an object group, an object query, an object condition, an object status, an object location, an object time, an object error, or an object image, video, or audio (map, col. 5, lines 40-52).

Re claim 28, Fan further teaches the mobile processor is monitored temporarily using an extrapolated or last-stored positional or visual signal (22 of fig. 1; col. 6, lines 6-40, e.g. web browser).

Re claim 29, Fan further teaches the mobile buyer processor is authenticated according to a voice pattern, a fingerprint pattern, a hand written signature, or a magnetic or smart card signal (col. 5, lines 53-67, e.g. telephone network used for voice pattern, wireless network use for every transmission included voice, video, text).

Re claims 30-32, 34-35, and 37-45, Fan teaches the transmission between the mobile unit (1 of fig. 1) and monitor (22 of fig. 1) over the Internet, which is in the form of an electronic mail message, as considered an electronic file, a research database (map). Since Fan uses the data network (27 of fig. 1) such as the Internet or telephone network or wireless network to communicate between the mobile (1 and 3 of fig. 1) and the monitor (22 of fig. 1), a user is able to receive a greeting car, news report includes stock report, artwork, person list, music, and live

music transmission, electronic tool, and a commercial transaction (col. 6, e.g. web browser, electronic mail).

Re claims 48-49, Fan further teaches the processor receives a signal from a sensor coupled to a mobile vehicle (Gas-meter is sensing gas or battery at low or empty) to determine that vehicle fuel or power is low or empty, thereby modification the mobile buyer interest for matching appropriate vendor service or product (direction to the gas station, col. 5, lines 22-53), and a signal from a sensor coupled to a mobile buyer vehicle to determine that the vehicle has a flat tire or airbag deployment, thereby modification the mobile buyer interest for matching appropriate vendor service or product (col. 5 and col. 6, e.g. the monitor (22 of fig. 2) is monitoring all activities, including flat tire of the truck company).

4. Claims 22-23, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fan et al. (US 5,959,577) in view of Westerlage et al. (US 5,970,481) as applied to claim 18, and further in view of Kennedy, III et al. (US 6,301,480).

Re claims 22-23, and 27, the combination of Fan and Westerlage teaches the mobile detector but it does not particularly teach a mobile communication unit comprises an accelerometer, and a modification according a rule set as claimed.

However, Kennedy teaches a mobile communication unit (12 of fig. 1) comprises an accelerometer and personal health sensor, and modification according a rule set (col. 3, lines 5-19).

Therefore, taking the combined teachings of Fan, Westerlage, and Kennedy as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the

teachings of Kennedy into the combined system of Fan and Westerlage for the same purpose of communicating between the remote patient and central station fast and more accuracy. Doing so would provide the advantages of the system include the adaptation of the system to provide mobile units are associated with cars, trucks, boats, barges, airplanes, cargo holders, persons or other mobile items such as ambulance vehicle that desire a selection of services. These services include emergency services, roadside assistance, information services (e.g., directions, news and weather reports, financial quotes, etc.), or other as suggested by Kennedy.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUNG T. VO whose telephone number is 703-308-5874. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris. Kelley can be reached on 703-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tung T. Vo
TUNG T. VO
PATENT EXAMINER

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